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Public Utility Commission of Texas

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Pat Wood, III
Chairman

Judy Walsh
Commissioner

Patricia A. Curran
Commissioner

January 15, 1998

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Office of the Secretary
Federal Communications Commission
1919 M. Street, N.W.
Washington, D.C. 20554

RE: CC Docket No. 96-45 (DA 98-2)
In the Matter of Federal State Joint Board on Universal Service
Report to Congress on Universal Service

To the Secretary:

Enclosed herewith for filing with the Commission are an original plus four copies of the Comments of the Public Utility Commission of Texas in the above captioned matter. We are also providing copies to ITS and the Common Carrier Bureau as directed by the Public Notice. We are also providing an electronic copy of these comments to the Common Carrier Bureau as directed.

Sincerely,

Steve Davis

Steve Davis
Director, Office of Policy Development

cc: ITS, Inc.
Ms. Sheryl Todd, Universal Service Branch

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of

Federal-State Joint Board on
Universal Service

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CC Docket No. 96-45
DA 98-2

**COMMENTS OF THE
PUBLIC UTILITY COMMISSION OF TEXAS
FOR THE REPORT TO CONGRESS ON UNIVERSAL SERVICE**

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FEDERAL COMMUNICATIONS COMMISSION

On January 5, 1998, the Common Carrier Bureau of the Federal Communications Commission ("Commission") issued a Public Notice¹ (DA 98-2) requesting comment in connection with the Report to Congress on Universal Service required by the 1998 appropriations statute. The report is to provide a detailed description of the extent to which the Commission's interpretations in specifically designated areas are consistent with the plain language of the Telecommunications Act of 1996.² The Public Utility Commission of Texas herein provides limited comment in response to the Public Notice. Time and resource constraints require that our comments generally highlight our previous positions expressed in this universal service proceeding. Due to the focus of this Public Notice and the required Report to Congress on Universal Service, we consider it important for the Commission to remain cognizant of the concerns of state regulators in the implementation of the 1996 Act.

¹ Public Notice; Common Carrier Bureau Seeks Comment for Report to Congress on Universal Service Under the Telecommunications Act of 1996, CC Docket No. 96-45 (Report to Congress)(DA 98-2), January 5, 1998.

² Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (codified at 47 U.S.C. §§ 151 *et. seq.*) ("1996 Act").

The Texas PUC remains committed to a cooperative process among state and federal regulators in the implementation of the 1996 Act, and recognizes the importance of the universal service proceeding in resolving the challenges that confront us. We provide the following responses to the five issues presented in the Public Notice.

1. The definitions of “information service,” “local exchange carrier,” “telecommunications,” “telecommunications service,” “telecommunications carrier,” and “telephone exchange service” in section 3 of the Act, and the impact of the interpretation of those definitions on the provision of universal service to consumers in all areas of the Nation.

The Texas PUC offers no response to this specific issue at this time.

2. The application of those definitions to mixed or hybrid services and the impact of such application on universal service, and the consistency of the Commission’s application of those definitions, including with respect to Internet access for educational providers, libraries, and rural health care providers under section 254(h) of the Act.

The Texas PUC offers no response to this specific issue at this time.

3. Who is required to contribute to universal service under section 254(d) of the Act and related existing Federal universal service support mechanisms, and of any exemption of providers or exclusion of any service that includes telecommunications from such requirement or support mechanisms.

The Texas PUC supports the Commission’s interpretations to date regarding the parties required to contribute to universal service under section 254(d). Those interpretations are also consistent with the Texas statute, which requires uniform contributions by “each telecommunications provider that has access to the customer base.”³

4. Who is eligible under sections 254(e), 254(h)(1), and 254(h)(2) of the Act to receive specific federal universal service support for the provision of universal service, and the consistency with which the Commission has interpreted each of those provisions of section 254.

³ Public Utility Regulatory Act, Tex. Rev. Civ. Stat. Ann. art 1446c-0 (Vernon Supp. 1996), Sec. 56.022.

Section 254(e) of the statute relies heavily on section 214(e), related to designation of carriers eligible to receive universal service support. In our June 26, 1977 Petition for Reconsideration⁴ directed at the Commission's May 8 Universal Service Order,⁵ the Texas PUC expressed its concern about the Commission's overly prescriptive interpretation of section 214(e). In keeping with our desire to work in cooperation with the Commission in implementing the 1996 Act, the Texas PUC completed its section 214(e) carrier eligibility proceeding on an expedited basis and provided the necessary notification to the Commission in December 1997.⁶

5. The Commission's decisions regarding the percentage of universal service support provided by federal mechanisms and the revenue base from which such support is derived.

In the June 26, 1977 Petition for Reconsideration, the Texas PUC expressed disagreement with the Commission's decision regarding the percentage of support to be provided by the federal fund to high cost service areas. We further expressed opposition to the Commission's plan to channel the benefit of universal service support to interstate access charge rate reductions. We believe that this funding amount is not sufficient to meet the needs of rural service providers.

Further, the plan to offset universal service support by interstate access reductions in effect diverts the current support mechanism that is focused on ensuring affordable rates for basic local services. For non-rural carriers, the Commission's plan would cause a significant shift in revenue requirement from the interstate to the intrastate jurisdiction. High cost support revenues received from the new universal service fund would be offset by reductions in interstate access

⁴ *Petition for Reconsideration*, Public Utility Commission of Texas, CC Docket No. 96-45, June 26, 1997 (transmitted July 15, 1997)

⁵ Federal-State Joint Board on Universal Service, *First Report and Order*, CC Docket No. 96-45, FCC 97-157 (rel. May 8, 1997), ("*Universal Service Order*").

⁶ Letter from Public Utility Commission of Texas to Mr. John Ricker, Universal Service Administrative Company, December 18, 1997.

revenues, but in addition, a non-rural carrier would lose the current level of funding received from the interstate USF. That loss in revenue would result in a higher intrastate revenue requirement to be recovered by higher intrastate rates or from the Texas USF.

In our Further Comments⁷ in response to the Federal-State Joint Board's Recommended Decision in this proceeding, we made no recommendation with respect to the revenue base to be used for the high cost funding mechanism.

While we disagree with the FCC's current plan for supporting high cost areas, we are keenly interested in participating in further discussions with the Commission and other state regulators in an attempt to resolve the challenges that exist in addressing the need for universal service support in high cost areas. With our extremely large number of customers located in rural areas of Texas, we remain vitally involved in ensuring that they receive affordable telecommunications services.

Conclusion

We remain committed to moving forward in the implementation of the 1996 Act, preserving the concept of universal service and bringing the benefits of competition in telecommunications to customers in every area of our state and the nation. The Commission's universal service proceeding has been described as one of the three major policy proceedings required for the implementation of the 1996 Act. The issues contained within this portion of the universal service rulemaking have proven to be the most contentious and emotional, however, as they involve a balance between the federal and state jurisdictions and a balance among the interests of the individual states, with affordable service to rural customers at stake. We pledge

⁷ *Further Comments of the Public Utility Commission of Texas*, CC Docket No. 96-45 (DA-96-1891), Adopted December 12, 1996 (transmittal letter by V. Oswalt, December 16, 1996)

to continue to assist in the search for that appropriate balance needed to transform section 254 of the 1996 Act into working programs for telecommunications customers.

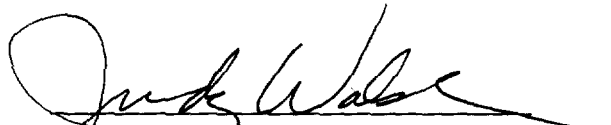
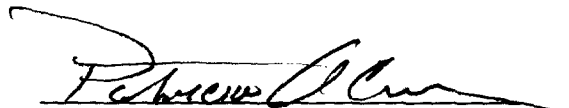
Respectfully submitted,

Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

January 14, 1998



Pat Wood, III
Chairman


Judy Walsh
Commissioner
Patricia A. Curran
Commissioner